

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

CASS LEE BUTTERSWORTH,

Plaintiff,

v.

JIM WETHERINGTON, ET. AL.,

Defendants.

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1:03-CV-146 (WLS)

ORDER

Before the Court is the Report and Recommendation from United States Magistrate Judge Claude W. Hicks, Jr. (Doc. No. 95), filed July 24, 2007. It is recommended that Defendants' motion for summary judgment be **DENIED** as to Defendants' in their individual capacities and **GRANTED** as to Defendants' in their official capacities. (Doc. No. 89). Neither Defendants nor Plaintiff have filed a timely, or any, objection to the Report and Recommendation.

Upon full consideration of the record, the Court finds that said Recommendation should be and hereby is, **ACCEPTED, ADOPTED** and made the order of this Court for reason of the findings and reasons set out therein. Accordingly, Defendants' motion for summary judgment in their individual capacities is **DENIED** and Defendants' motion for summary judgment in their official capacities is **GRANTED**. (Doc. No. 89).

SO ORDERED, this 27th day of August, 2007.

/s/W. Louis Sands
W. Louis Sands, Judge
United States District Court